

Remarks

Upon entry of the forgoing amendments claims 31-48 and 67-84 are pending in the application. Claims 49-66 have been withdrawn.

New claim 84 has been added. The amendments do not introduce any new subject matter within the meaning of 35 U.S.C. §132. Therefore, entry of the amendments is respectfully requested.

SUMMARY OF RESTRICTION REQUIREMENT

The Examiner has required restriction of claims 31-83 to a single disclosed species under PCT Rule 13.1, as follows:

GROUP I: claims 31-48 and 67-83, drawn to a method and composition for slimming the human body and reducing subcutaneous fat with a composition comprising phytosphingosine or one of its cosmetically acceptable salts

Group II: claims 49-66, drawn to a method for stimulating synthesis of leptin by adipocytes with a composition comprising phytosphingosine or one of its cosmetically acceptable salts

PROVISIONAL ELECTION

Applicants provisionally elect the invention of Group I above, and the species adenylate cyclase enzyme activating agents, and more specifically, *Coleus forskholii*, e.g. *Plectanthus barbatus*, with traverse. Newly submitted claim 84 is readable on the elected invention.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction requirement.

First, the restriction requirement is traversed because the Examiner has used as basis for the requirement, lack of unity under PCT Rule 13.1. However, applicants respectfully point out to the Examiner that no lack of unity of the invention objection was made during the examination of the PCT application.

Furthermore, the requirement omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required. See MPEP 803. Regardless of any differences which may exist between the inventions set forth in the different groups, a complete and thorough search for the invention set forth in any one of the groups would require searching the art areas appropriate to the other groups. Since a search of each of the inventions of the groups would be coextensive, it would not be a serious burden upon the Examiner to examine all of the claims in this application.

Further at the Examiner's disposal are powerful electronic search engines providing the Examiner with the ability to quickly and easily search all of the claims. Considering that the Examiner will most likely undertake a search for the power plant of claim 34, searching for the power plant of other independent claims would be minimally burdensome on the Examiner.

Moreover, given the overlapping subject matter and identical classifications of the species, examinations of all the invention groups would not pose a serious burden because they would be coextensive. Further, the fact that various claims may fall under different U.S. Patent and Trademark Office classes does not necessarily make them independent or distinct inventions. The classification system at the U.S. Patent and Trademark Office is based in part upon administrative concerns and is not necessarily indicative of separate inventive subject matter in all cases.

Furthermore, applicants have paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when filing this application and persists in requiring applicants to file divisional

applications for each of the groups of claims, the Examiner would essentially be forcing applicants to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in divisional applications) are not refundable.

CONCLUSION

In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or comments regarding this matter, he is welcomed to contact the undersigned attorney at the below-listed number and address.

Respectfully submitted,

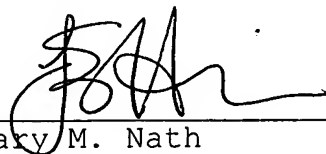
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